

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:03CR25-1-MU

UNITED STATES OF AMERICA,)
Plaintiff,)
)
v.)
)
PHILLIP JOHANN ROBINSON,)
Defendant.)
_____)

O R D E R

THIS MATTER is before the Court on Defendant's Motion for Transcripts, filed October 6, 2006.

Defendant is a federal inmate who was convicted of Armed Bank Robbery. Defendant does not contest his sentence or conviction. Rather he is arguing that his pre-sentence report does not accurately reflect that facts of his crime. More specifically, Defendant argues that his pre-sentence report inconsistently sets forth in some paragraphs that he was carrying a pistol when he robbed the banks while in other paragraphs his pre-sentence report sets forth that he was carrying a BB gun or pellet gun.¹

Defendant contends that the reference to pistols is precluding him from participating in the 500 hour drug program. Defendant

¹ A review of the pre-sentence report reveals that the inconsistency arises from the discrepancy between Defendant's account of what type of weapon he was carrying and the FBI and witnesses' accounts of what type of weapon Defendant was holding when he robbed the banks. A review of the Indictment, however, reveals that the weapons listed in the Indictment were a BB gun and a pellet gun.

requests free copies of his Rule 11 and Sentencing Hearing transcripts to aid him in establishing that he did not possess a pistol.

It is this Court's understanding that whether Defendant carried a pistol or a bb/pellet gun is irrelevant to his receiving credit for his participation in the 500 hour drug program. That is, because Defendant was convicted of a violent crime - armed bank robbery -- he cannot receive credit off his sentence for participation in the 500 hour drug program regardless of whether he carried a pistol or a BB/pellet gun. Consequently, Defendant's stated reason for needing copies of his Rule 11 and Sentencing Hearing transcripts does not warrant the granting of his request.

NOW, THEREFORE, IT IS HEREBY ORDERED that Defendant's Motion for Transcripts is **DENIED**.

Signed: November 9, 2006

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

